

**TIME-SHARE PURCHASE MONEY SECURITY/INSTRUCTIONS**  
**[\$11243/11244]**

RE 600F (New 5/05)

**DEVELOPER**

NAME OF DEVELOPER

ADDRESS, CITY, STATE, ZIP CODE

**DEPOSITORY**

NAME OF DEPOSITORY

Department of Real Estate

ADDRESS, CITY, STATE, ZIP CODE

320 W. 4th Street, Suite 350, Los Angeles, CA 90013-1105

**PART ONE — PURCHASE MONEY SECURITY DECLARATION**

1. This Purchase Money Security Declaration ("Declaration") is made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the Developer identified above.
2. **Recitals.**
  - A. Developer is engaged in the sale or lease or offering for sale or lease of lots, units or parcels in the time-share plan described in Exhibit "A" attached hereto and made a part hereof, and such additional time-share plan as the Developer may hereafter designate in amendments to Exhibit "A" ("time-share plan"). In the course of the sale or lease of the time-share plan, Developer must comply with the provisions of Section 11243 or 11244 of the California Business and Professions Code ("the Code"); and
  - B. Developer has elected to comply with the provisions of Sections 11243 and 11244 of the Code by establishing the Security described below for the benefit and protection of each and every purchaser or lessee of any time-share interests within the time-share plan ("the purchaser").
3. **Secured Obligation.** In the course of every purchase or lease, which is subject to the provisions of Sections 11243 or 11244 of the Code, of a time-share interest, Developer shall take one of the following actions:
  - A. Developer shall forthwith deposit the entire sum of money paid or advanced by the purchaser into an escrow depository theretofore accepted by the Commissioner, which escrow has agreed to hold and disburse said monies in compliance with Section 11243 or Section 11244 of the Code, as applicable; or
  - B. Developer shall complete all property improvements in compliance with Section 11243(b) of the Code or provide acceptable property completion security in compliance with Section 11230(a) of the Code, **and** deliver the legal title or other interest contracted for, whether it be title of record or other interest, to the purchaser within the time specified in the contract to sell or lease or any extension thereof and obtain a proper release from any blanket encumbrance affecting said purchaser's time-share interests; or
  - C. If said monies have not been deposited in escrow as provided in (A) above or said legal title or other interest contracted for has not been delivered as provided in (B) above, Developer shall forthwith return the monies so paid or advanced.
4. **Security.** To secure the performance of the obligation described in Part One, Paragraph 3, above, the Developer has procured the issuance of the:
  - A. Surety bond in the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), to the State of California, as obligee,

The term "Security" as used in this Declaration refers to the surety bond identified above, together with any funds drawn thereunder held by the Depository.

5. **Enforcement and Release of the Security.** If the Developer fails to perform the Developer's obligation under Part One, Paragraph 3 of this Declaration, each and every purchaser damaged by such failure shall have the right, whether through enforcement of the Security, demand upon funds drawn thereunder held by the Depository, or otherwise, to receive such sums as may be required to satisfy the obligation of the Developer to such purchaser under Part One, Paragraph 3 of this Declaration, and the Developer shall, without regard to any other disputes or negotiations then existing, immediately take any and all actions and execute any and all documents as may be required to cause such sums to be paid to such purchaser.

Any amount received by such purchaser directly from the Developer or from proceeds of the Security shall be credited against any claim by such purchaser arising out of the Developer's failure to perform the Developer's obligations under this Declaration.

6. **Provisions for Arbitration of Conflicts.** In the event there is a dispute between the Developer and any purchaser with respect to this Declaration or the enforcement, exoneration, or release of the Security, the issue or issues shall, at the request of either Developer or the purchaser, be submitted to arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") before an arbitrator selected from the panels of the arbitrators of said AAA. In the event of referral to arbitration, Developer will remit the fee to initiate the arbitration, however the costs of arbitration shall ultimately be borne as determined by the arbitrator. The Developer and the purchaser shall abide by the determination of the arbitrator with respect to the enforcement, exoneration or release of the Security and with respect to payment of the costs of arbitration.
7. **Attorney's Fees.** In any action or proceeding arising out of this Declaration, the prevailing party or parties shall be entitled to reasonable attorney's fees.
8. **Assignment.** Developer may assign its rights under this Declaration to the Issuer of the Security. Such assignment does not make the assignee liable for any of Developer's obligations pursuant to this Declaration, unless such obligations have been specifically assumed by the assignee in writing.
9. **Binding Upon Successors.** This Declaration and the rights and duties of parties in interest thereof shall be binding upon and shall inure to the benefit of the successors in interest, and assigns of the respective parties.
10. **Laws of California.** This Declaration shall be construed and governed by the laws of the State of California.

## PART TWO — INSTRUCTIONS TO DEPOSITORY

This constitutes instructions by the Developer to the Depository, which instructions are irrevocable except as modified by the addition of time-share plan by amendments to Exhibit "A."

Depository hereby acknowledges receipt of the surety bond described in Part One, Paragraph 4 of the foregoing Declaration. The term "Security" as used in these instructions refers to the cash deposit, surety bond, letter of credit, or set-aside letter, together with any funds drawn thereunder held by the Depository pursuant to these instructions. The term "Claimant" as used in these instructions refers to each and every person who has filed a verified written claim with the Depository stating that the Developer has failed to perform the Developer's obligations under Part One, Paragraph 3, above.

Nothing contained in these instructions imposes any duty on the Depository to audit in any way the Developer's discharge of its duties or obligations thereunder, or to verify the truth of the statements made in any notices given to the Depository by the Developer. Except as otherwise provided by law, the duties of the Depository are to receive, hold, release, or draw upon the Security in accordance with the following instructions.

### 1. Return Of The Security To The Developer.

- A. If the Depository receives a written demand from the Developer for the return of the Security, which demand is accompanied by the Developer's statement that the Developer has fully and finally performed all Developer's obligations under Part One, Paragraph 3, above, then, within fifteen (15) calendar days of receipt of the demand and statement, the Depository shall deliver a copy of the demand and statement to each and every Claimant together with a statement notifying the Claimant that the Claimant's written objection to return of the Security to the Developer must be received by the Depository within forty (40) days after delivery of the demand and statement to the Claimant.
- B. If within forty (40) calendar days after such delivery, any Claimant delivers to the Depository the Claimant's written objection to the return of the Security to the Developer, then the Depository shall continue to hold, release, or draw upon the Security in accordance with these instructions. If within forty (40) calendar days after the Depository delivers the demand and statement to the Claimant, no Claimant delivers to the Depository a written objection to the return of the Security to the Developer, then the Depository shall promptly deliver the Security to the Developer.

### 2. Remittance Of The Security To The Claimants.

- A. If the Depository receives a demand from one or more Claimants for the remittance of the Security, or some specified portion thereof, which demand is accompanied by the Claimant's statement that the Developer has failed to perform the Developer's obligations under the Part One, Paragraph 3, above, then, within fifteen (15) calendar days of receipt of the demand and statement, the Depository shall deliver a copy of the demand and the statement to the Developer, together with a statement notifying the Developer that the Developer's written objection to remittance of the Security

to the Claimant or Claimants must be received by the Depository within forty (40) days after delivery of the demand and statement to the Developer.

- B. If within forty (40) calendar days after such delivery, the Developer delivers to the Depository the Developer's written objection to the remittance of the Security to the Claimant, then the Depository shall continue to hold, release, or draw upon the Security in accordance with these instructions. If within forty (40) calendar days after the Depository delivers the demand and statement to the Developer, the Developer does not deliver to the Depository the Developer's written objection to the remittance of the Security to the Claimant, then:

- 1) The Depository shall promptly deliver a copy of the Security to the Claimant.

### 3. **Conflicting or Nonconforming Instructions.**

In any of the circumstances described in subparagraphs A through E, below, the Depository shall, at its sole discretion, either (1) interplead the Security, (2) retain the Security until the Security is returned to the Developer or remitted to the Claimant in accordance with these instructions, or (3) retain the Security until the Security is disposed of in accordance with the order of a court of competent jurisdiction:

- A. A Claimant timely objects in writing to a demand by the Developer for the return of the Security;
- B. The Developer's demand for the return of the Security is not accompanied by the statement described in Part Two, Paragraph 1-A, above;
- C. The Developer timely objects in writing to a demand by a Claimant for remittance of all or any portion of the Security;
- D. The Claimant's demand for remittance of the Security is not accompanied by the statement described in Part Two, Paragraph 2-A, above; or
- E. The Depository receives conflicting instructions or claims.

### 4. **Pending Return Or Remittance Of The Security.**

- A. If the Security is or has become a cash deposit, a surety bond or a set aside letter, the Depository shall retain the Security until the Security is disposed of in accordance with these instructions or the order of a court of competent jurisdiction.

### 5. **Notices.**

Delivery of all notices and other documents described in these Instructions or in the foregoing Declaration shall be made by overnight or same-day commercial delivery service or by United States mail, certified or registered, postage prepaid. All such notices and documents shall be deemed delivered, given and received: (a) the day of sending via same-day commercial delivery service; (b) the following business day after sending via overnight commercial delivery service; or (c) three (3) calendar days after deposit in the United States mail. All such notices shall be addressed as set forth on page 1 of this Declaration and Instructions; provided that the Developer and the Depository and any claimant may at any time change their respective address for notices and other documents described herein by sending to the other parties a written notice specifying the new address.

NAME OF DEVELOPER

SIGNATURE



DATE

NAME AND TITLE OF PERSON SIGNING

## **Receipt Acknowledgment**

*Receipt of the foregoing and the security is hereby acknowledged.*

NAME OF DEPOSITORY

SIGNATURE



DATE

NAME AND TITLE OF PERSON SIGNING